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CRP(PD).No.3939 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2023

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

CRP(PD).No.3939 of 2023

1. B.Aruna

2.
...Petitioners

C.Rameshkumar

Vs.

S.M.K.Mohamed Ali Jinnah
Prop.M/s Maha Flats,
...Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and decree dated 29.03.2022 made in I.A.No.217 of 2022 in UNOS SR No.824 of 2022 on the file of District Munsif Court at Alandur, Chennai.

For Petitioners : Mr.H.Arif Ali

ORDER

This Civil Revision Petition has been filed to set aside the order dated 29.03.2022 passed by the District Munsif Court at Alandur, Chennai. in



I.A.No.217 of 2022 in UNOS SR No.824 of 2022.

2. Before the trial Court, the revision petitioners/plaintiff filed an application in I.A.No.217 of 2022 seeking to leave to sue for further claim in respect of the suit property under Order 2 Rule 2 of CPC. The said application application was rejected by the trial Judge stating that there is no valid reason assigned by the revision petitioners/plaintiffs, hence the application was dismissed.

3. Challenging the same, the revision petitioner/plaintiffs have filed this Civil Revision Petition.

4. The learned counsel for the revision petitioners submitted that the suit was filed before the trial Court for the relief of permanent injunction and in respect of car parking. Further, learned counsel for the revision petitioners submitted that they filed an application before the trial Court to permit them to leave to sue for further claim and the said application was dismissed by the trial Judge. He further submitted that if this petition is not allowed, they will be put to irreparable loss and hardship and no prejudice will be caused to the respondent. Hence, he prayed to allow this petition.



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5. Admittedly, the suit was filed for permanent injunction even in that suit in respect of car parking also mentioned. Therefore, the plaintiffs are entitled to file the comprehensive relief in respect of the said car parking and statutory right given to the plaintiff but the trial Judge without appreciating the same and erroneously dismissed the application. Hence, this Court is of the considered view that if the opportunity is not given to the revision petitioners, their valuable right of the defence will be defeated. Therefore, the order dated 29.03.2022 passed by the District Munsif Court, Alandur, Chennai, in I.A.No.217 of 2022, is hereby set aside.

6. In the result, this Civil Revision Petition is allowed. No costs.

20.11.2023

Speaking / Non Speaking order
Neutral Citation : Yes/No
Index : Yes/No
msrm

To

1. The District Munsif Court, Alandur, Chennai.

2. The Section Officer,
VR Section,
High Court of Madras



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T.V.THAMILSELVI.J,

msrm

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